

Executive and Council Report

Ward(s) affected: All wards

Report of Joint Strategic Director of Place, Dawn Hudd

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Adoption of Guildford Borough Local Plan: Development Management Policies

Executive Summary

The Local Plan: Development Management Policies (hereafter referred to as 'the LPDMP') is the second part of Guildford's Local Plan. Once adopted it will supersede extant Local Plan 2003 policies and become part of the Council's Development Plan. The LPDMP provides the more detailed policies to be used by Development Management in the determination of planning applications.

Following submission of the LPDMP by the Council to the Secretary of State in June 2022, the Plan was subject to Examination in Public. This included a set of written matters and questions from the Government appointed Planning Inspector, responses from the Council and consultees, and a series of hearing sessions into those issues the Inspector considered it necessary to explore further with all relevant parties. Those sessions occurred from 15 to 17 November 2022. Following which, the Inspector proposed several necessary main modifications be made for the plan to be found 'sound'. The proposed main modifications to the Plan underwent a formal consultation for a 7-week period from 15 December 2022 to 2 February 2023. The consultation related only to the main modifications and not to additional/minor modifications, or the remainder of the plan. On completion of the consultation, the Inspector considered the representations and prepared his report.

The Inspector's draft report was received by Guildford Borough Council on 22 February 2023 and was subject to a 'fact check'. This check allowed the Council the opportunity to review the accuracy of its contents, but it was not an opportunity to question the Inspector's conclusions or findings. The Inspector's final report (at

Appendix 1) was published by the Council on 3 March 2023 – it finds the LPDMP sound, subject to several Main Modifications being made.

Following the Inspector's recommended Main Modifications (at Appendix 2), the Council has also made several additional/minor modifications to the LPDMP (at Appendix 3). These modifications are minor in nature, do not materially affect the plan's policies and are not matters of soundness. They are designed to aid clarity, consistency, and accuracy. During the examination, minor modifications were shared with the Inspector who has agreed they are correctly described as minor in nature and did not therefore need to be consulted upon.

This report will also be considered by the special Executive meeting to be held on 20 March 2023. Any comments or recommendations will be set out in the Order Paper for the extraordinary Council meeting.

Recommendation to Executive:

- (1) That subject to the adoption of the Local Plan: Development Management Policies, the Parking Standards for New Development Supplementary Planning Document (SPD) (at Appendix 6) be adopted.
- (2) That the Lead Councillor with portfolio responsibility for Planning Policy be authorised, in consultation with the Joint Strategic Director of Place, to make such minor alterations to improve the clarity of the Parking Standards for New Development SPD as they may deem necessary.
- (3) To review the full contents of the report and appendices with Executive comments to be passed to full Council meeting on 22 March 2023.

Recommendation to Council:

- (4) That the Local Plan: Development Management Policies (Appendix 4), which incorporates the Inspector's Main Modifications (at Appendix 2 to this report) and the Council's Minor Modifications (at Appendix 3 to this report), be adopted.
- (5) That the Secretary of State be requested to exercise his powers to revoke the 'residual' policies of the 2003 Local Plan.
- (6) That updates to the Guildford Borough Policies Map be adopted in line with the Local Plan: Development Management Policies including additions proposed at Appendix A of the Local Plan: Development Management Policies, as amended by the Inspector's main modification 6.
- (7) That the Lead Councillor with portfolio responsibility for Planning Policy be authorised, in consultation with the Joint Strategic Director of Place, to make such minor alterations to improve the clarity of the LPDMP as they may deem necessary.

Reasons for Recommendation:

- (1) To enable the adoption of the Parking Standards for New Development SPD to provide further guidance regarding the implementation of LPDMP Policy ID11 [now Policy ID10]: Parking Standards for New Development.
- (2) To enable minor alterations to be made to the SPD should they be necessary prior to publication
- (3) To enable the adoption of the LPDMP in line with the Council's Local Development Scheme and for the plan to become part of the Council's development plan, carrying full weight in the determination of planning applications.
- (4) To enable the revocation of the 'residual' Local Plan 2003 policies that are not superseded by policies contained in the LPDMP.
- (5) To ensure that changes are brought about to the policies map in line with the adoption of the LPDMP.
- (6) To enable minor alterations to be made to the LPDMP should they be necessary prior to publication.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 Formal adoption by the Council is the final stage in the process of producing a new Local Plan. The Inspector's Report (see Appendix 1), reflecting upon the LPDMP's soundness concludes that the plan is sound, subject to a number of Main Modifications. This report proposes that the Council adopts the LPDMP with the Inspector's Main Modifications (see Appendix 2) and the Council's Additional/Minor Modifications (see Appendix 3). A final version of the Local Plan, which incorporates all the Inspector's Main Modifications and the Council's Minor Modifications, is included at Appendix 4. Updates to the policies map will be produced after adoption. This includes incorporation of the Guildford Borough Cycle Network as shown in Appendix A of the LPDMP and as amended by the Inspector's main modification 6.

2. Strategic Priorities

- 2.1 The production of the Local Plan is a statutory requirement and will help the Council meet its strategic priorities. The Local Plan, consisting of the adopted Local Plan: Strategy and Sites 2019 (LPSS) and the LPDMP (once adopted) enables the Council to mitigate and adapt to Climate Change as well as provide for the needs of the community whilst enhancing the economy and protecting the borough's special built and natural environment.

- 2.2 The LPDMP is based upon thirteen strategic objectives, which are framed within one of the following four core themes: society, environment, economy and infrastructure. These strategic objectives are the same as those that underpinned the LPSS and build upon the fundamental themes identified in the Council's Strategic Framework.

3. Background

- 3.1 Planning decisions must be taken in line with the 'development plan' unless material considerations indicate otherwise. The development plan for an area is made up of the combination of strategic policies (which address the priorities for an area) and non-strategic policies (which deal with more detailed matters). The extant policies in the Guildford Borough Local Plan 2003 and the policies in the adopted LPSS currently form part of Guildford's current development plan. Policies from the Local Plan 2003 were saved for development management purposes pursuant to the transitional provisions set out in the Planning and Compulsory Purchase Act 2004 (the 2004 Act). A number of policies in the Local Plan 2003 were superseded by the LPSS (listed in Appendix 8 of the LPSS) and most of the remaining policies from that plan (listed in the table within Appendix D of the LPDMP) will be superseded on the adoption of the LPDMP. There remain a small number of policies from the Local Plan 2003 which are not superseded by either the LPSS or LPDMP. These policies (identified in the text below the table within Appendix D of the LPDMP) are redundant, and the Council will request that the Secretary of State revoke these policies, exercising his powers under the 2004 Act.
- 3.2 The policies in the LPDMP have been prepared in accordance with the National Planning Policy Framework (NPPF) and the statutory framework prescribed in the 2004 Act, and the Local Planning Regulations (including the Duty to Cooperate). The National Planning Practice Guidance (NPPG) has also been used to inform the plan-making process.
- 3.3 Preparation of the LPDMP began in earnest in 2019. Prior to submission of the plan in June 2022, versions of the Plan were the subject of two formal public consultations. These consisted of a Regulation 18 consultation in summer 2020 and a Regulation 19 consultation in January – February 2022 - the timing of both consultations occurred in line with the Council's adopted Local Development Scheme.

4. Examination of the Plan

- 4.1 The Council submitted the LPDMP for examination on 17 June 2022 (see link to the submitted Plan at paragraph 15.2 below). In addition to the LPDMP, the submission documents included changes to the Submission Policies Map (also contained in Appendix A of the LPDMP); the Sustainability Appraisal; the Consultation Statement covering all aspects

- of the consultation process and a summary of the main issues raised and how those issues have been addressed; a copy of the representations themselves; and a series of supporting documents that are relevant to the preparation of the LPDMP.
- 4.2 The Inspector considered the submission documents and published a set of matters and questions to which the Council and consultees were invited to respond.
 - 4.3 Following the submission of response statements, the Inspector held a series of hearing sessions into matters of soundness that he wished to consider further. These hearings took place from 15 to 17 November 2022.
 - 4.4 After the hearing sessions, a targeted two-week consultation occurred on the Council's biodiversity net gain (BNG) Capacity in Guildford Note. This note was produced following the Inspector's questions regarding whether the Policy P6/P7 [now Policy P7] BNG requirement was deliverable, including in relation to the provision of off-site credits to ensure that delivery of development was not threatened. The note included an estimate of the amount of offsite Biodiversity Net Gain (BNG) credits that will be needed to deliver the growth strategy included in the LPSS and reflecting this against the potential supply of credits including those likely to be available within the borough.
 - 4.5 The Inspector then identified a set of main modifications which he considered necessary to address soundness concerns.
 - 4.6 The Inspector's proposed main modifications to the plan underwent formal consultation for a 7-week period from 15 December 2022 to 2 February 2023. The consultation related to only the main modifications and not to additional / minor modifications or the remainder of the plan.

THE INSPECTOR'S REPORT AND MAIN MODIFICATIONS

- 4.7 The Inspector's draft report was received by Guildford Borough Council on 22 February 2023 and was subject to a 'fact check'. This check allowed the Council the opportunity to review the accuracy of its contents, but it was not an opportunity to question the Inspector's conclusions or findings. The Inspector's final report (at Appendix 1) was published by the Council on 3 March 2023.
- 4.8 Importantly, the report indicates those main modifications (to the submission version of the plan referenced at paragraph 15.2 below) that the Inspector requires for the LPDMP to be found sound. These main modifications are set out at Appendix 2 which reflects 7 main modifications, ordered by the policy to which they apply. Changes to paragraphs within the same policy or its supporting text are grouped together under a single modification.

- 4.9 In summary, the Inspector outlined the following main modifications with fuller explanations in his report at paragraphs 23 - 45:
- MM1 Policy H7 [now Policy H6]: Review Mechanisms – to clarify the scope and process for a review mechanism for the delivery of affordable housing.
 - MM2 Policy H8 [now Policy H7]: First Homes – to introduce flexibility in the provision of First Homes.
 - MM3 Policy P6/P7 [now Policy P7]: Biodiversity in New Developments – to clarify the principles, and date for implementation of the policy.
 - MM4 Policy D14 [now Policy D16]: Carbon Emissions from Buildings – to align the standards with the building regulations.
 - MM5 Policy ID10 [now Policy ID9]: Achieving a Comprehensive Guildford Borough Cycle Network – to amend the cycle network plan, clarify its status and introduce more flexibility for solutions in rural areas.
 - MM7 Policy ID11 [now Policy ID10]: Parking Standards for New Development – to amend and clarify parking standards.
- 4.10 Officers' views are that the main modifications proposed are limited in scope, with most of the policies remaining in the form that they were previously agreed and submitted. Further, and importantly the Inspector has found the Council's higher minimum requirement for BNG at 20% to be sound, though its implementation is delayed to occur in line with the national scheme which is expected to be later this year.

ADDITIONAL / MINOR MODIFICATIONS

- 4.11 In addition to the Main Modifications recommended by the Inspector, the Council can also put forward 'additional modifications' of its own to address minor matters (often referred to as "Minor Modifications"). These are modifications that (taken together) do not materially affect the policies set out in the Local Plan. Whilst these Minor Modifications do not go to the soundness of the plan and consist of factual corrections and matters of consistency or clarity, they will form part of the plan on adoption. An initial schedule of Minor Modifications was published at the same time as consultation on Main Modifications was undertaken, however this was not subject to consultation. A draft schedule of Minor Modifications is contained at Appendix 3.

5. Parking Standards for New Development SPD

- 5.1 Whilst the LPDMP includes a policy on Parking Standards for New Development - Policy ID11 [now Policy ID10], it is considered preferable to include some elements of the parking standards within SPD rather than the Local Plan itself. Having them contained within an SPD enables them to be updated more easily in the future should circumstances change. This is because an SPD only requires a single consultation and can be adopted

- by the Council without having to be submitted to the Secretary of State for examination.
- 5.2 The process of developing the Parking SPD has proceeded in parallel with the Local Plan process to ensure that it was aligned to the Policy approach and detail set out in the Plan. It underwent consultation (see Appendix 7) alongside the draft Local Plan in January / February 2022 following being tabled before the Joint Executive Advisory Board (20 Sept 2021), Executive, and Full Council alongside the draft Local Plan.
- 5.3 The SPD was not intended to be adopted until after the conclusion of the Local Plan examination. The reason for doing so was to establish from the Inspector whether Policy ID11 [now Policy ID10] is sound in relation to its reference to the Parking SPD and the standards being proposed to be included in the Parking SPD are appropriate to include as SPD rather than policy within the emerging Local Plan. Should the Inspector have considered that some of the content within the SPD was straying beyond guidance and should instead be included with the Local Plan, then the Plan could have been amended to reflect this approach as a main modification.
- 5.4 Following the Inspector's main modifications, which make the Plan sound, including those to Policy ID11 [now Policy ID10], the Council is able to adopt the SPD, alongside the Local Plan. It was tabled for adoption at a Special Executive meeting on 20 March 2023, subject to Council adopting the LPDMP. The SPD has been updated to align with Policy ID11 [now Policy ID10] and provides further guidance on the application of Policy on parking standards in Guildford borough. In line with Policy ID11 [now Policy ID10] and particularly in relation to parking provision on non-strategic sites, applicants and decision-makers will need to have regard to the standards and requirements set out in the SPD.

6. Internal Consultations

- 6.1 In addition to the formal consultation process, the Planning Policy team has worked closely with the Development Management team (DM) in the drafting of policies to ensure that they are effective in the decision-making process. A significant role has also been played by officers within the Council including from Housing, Parks, Climate Change, and Regulatory Services.
- 6.2 Further, an extensive series of Local Plan Panel meetings over the course of plan preparation provided valuable input to the formulation of policies. The Panel comprises cross party representation of members and is designed to act as a sounding board in the development of the Local Plan.

- 6.3 Prior to submission, the document was considered by the Joint Executive Advisory Board at its meeting on 10 May 2022.

7. Key Risks

- 7.1 Planning decisions should be based on up-to-date Local Plans. Not adopting the second part of the Guildford Borough Local Plan would mean decision makers still being reliant on the extant policies contained in the 2003 Local Plan, albeit that the draft LPDMP policies are likely to also carry weight having progressed to and through examination and been found to be sound. This would create uncertainty in relation to decision-making on planning applications.
- 7.2 Adopting this new set of development management policies provides an opportunity of securing higher quality sustainable development in the borough and an opportunity to contribute positively to the climate change emergency (see Climate Change/sustainability below).

8. Financial Implications

- 8.1 There are no financial implications associated with adopting the Local Plan.

9. Legal Implications

- 9.1 The Inspector confirms within his report that the Council has met its legal Duty to Cooperate and provides a summary of legal compliance with other statutory requirements at paragraphs 15 - 21 of his report. This includes that the policies of the LPDMP as modified are consistent with the LPSS in compliance with regulations 8(4) and 8(5) of the Town and Country Planning (Local Planning) (England) Regulations 2012. The report concludes that with the recommended Main Modifications, the LPDMP satisfies the requirements referred to in Section 20(5)(a) of the Planning and Compulsory Purchase Act 2004 and is sound.
- 9.2 Under the Council's Constitution and in accordance with the statutory provisions contained the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), full Council has the power to make decisions in relation to the preparation and adoption of the Development Plan.
- 9.3 If the Council resolves to adopt the plan, a 6-week period will begin during which any person aggrieved by the decision may bring an application for statutory review of the decision in the High Court. Such a challenge can only be brought on the basis that there is a material error of law in the Council's decision to adopt the plan.

- 9.4 On adoption of the LPDMP, the policies identified in the table within Appendix D to the LPDMP will automatically - by operation of law - be superseded and will cease to be part of the development plan. It requires no further action/resolution on behalf of the Council.
- 9.5 However, the difficulty arises in respect of those policies from the 2003 Plan which are not superseded. It is considered that these 'residual' policies need to be revoked by the Secretary of State, exercising his powers under section 25(a) of the 2004 Planning and Compulsory Purchase Act. To address this matter, this report includes a resolution to confirm a request that the Secretary of State exercise his powers under section 25(a) of the 2004 Act to revoke the 2003 Local Plan. This request was included in the letter to the Planning Inspectorate that accompanied the submission of the LPDMP.

10. Human Resource Implications

- 10.1 There are no HR implications associated with adopting the Local Plan.

11. Equality and Diversity Implications

- 11.1 All public authorities are required by the Equality Act 2010 to specifically consider the likely impact of their policy, procedure or practice on certain groups in the society.
- 11.2 It is our responsibility to ensure that our policies, procedures and service delivery do not discriminate, including indirectly, on any sector of society. Council policies, procedures and service delivery may have differential impacts on certain groups with protected characteristics, and these will be highlighted in the Equalities Impact Assessment (EqIA) screening. Likely differential impacts must be highlighted, and described, as some may be positive. Where likely significant adverse differential impacts are identified, consideration should be given to opportunities to reduce or mitigate this through a full equalities impact assessment.
- 11.3 The Council has been mindful of its obligations in terms of the Public Sector Equality Duty throughout the plan-making process. Screening EqIA was conducted at both Regulation 18 and Regulation 19 stages, alongside further consideration of EqIA at submission stage (see background paper). In this regard and considering the nature of the proposed main modifications to the LPDMP, officers are of the view that no further EqIA is necessary. Officers have reflected upon the EqIA produced at submission stage and the final version of the LPDMP and retain the view as expressed in the submission EqIA that the LPDMP will continue to not have a negative impact on those with protected characteristics, neither does it reflect the potential for discrimination. The opportunity to foster greater equality and positive impacts for protected groups has been

sought and incorporated within policies where appropriate. In this light, it is considered that the policies will lead to a betterment for protected groups where this is possible including in relation to elements of housing development, design, open space provision, protection of the environment and development and/or retention of infrastructure such as community facilities, the cycle network, and parking provision.

12. Climate Change/Sustainability Implications

- 12.1 The timely adoption of the LPDMP will enable the policies proposed to carry full weight as part of the development plan. The suite of policies covers a range of topics that will all contribute towards the achievement of Climate Change objectives and sustainable development.
- 12.2 The LPDMP policies will have a positive impact in helping to secure sustainable and low impact development, Climate Change resilient development, and renewable and low carbon energy schemes. The Plan will also contribute towards securing improvements in air and water quality, and biodiversity.
- 12.3 The LPDMP has been subject to a Sustainability Appraisal (SA). The SA is the outcome of an iterative process that is prepared to accompany each version of the Local Plan. It incorporates the requirement for Strategic Environmental Assessment (SEA) and assesses each policy against environmental, social and economic objectives. A Habitats Regulations Assessment (HRA) has also been prepared. This ensures that the LPDMP conforms with the Habitats Regulations and will not adversely affect any European protected habitats or species. The final step in the SA process involves preparing a statement at the time of a Local Plan's adoption.
- 12.4 The SA Adoption Statement (see Appendix 5) includes information on how environmental considerations have been integrated into the plan reflecting on the SA process up to the point of adoption, alongside explaining the measures decided concerning monitoring of the plan.
- 12.5 The SA Adoption Statement demonstrates that a robust SA process has been progressed alongside plan-making and in compliance with both the SEA¹ and Local Planning² Regulations.
- 12.6 The Inspector indicates at Paragraph 17 of his report that Sustainability Appraisal has adequately assessed the LPDMP to establish, when judged against reasonable alternatives, that the plan will help to achieve relevant environmental, economic and social objectives. He also notes that no

¹ Environmental Assessment of Plans and Programmes Regulations 2004

² Town and Country Planning (Local Planning) (England) Regulations 2012

further SA or habitats regulations assessment (HRA) was necessary (following submission) due to the nature of the main modifications.

13. Summary of Options

- 13.1 Two options are available to the Council regarding a decision on the LPDMP. Officers' recommendation is that the plan is adopted with the Inspector's recommended main modifications – there is no option to pick and choose from the Inspector's recommendations. The alternative course of action is for the plan to not be adopted, with risks of this option set out in the Key Risks section above.

14. Conclusion

- 14.1 Following the Examination in Public into the LPDMP, the Inspector concluded that the plan is sound, subject to a number of Main Modifications being made. Adoption would enable the LPDMP to become part of the Council's development plan and carry full weight in the determination of planning applications, as well as replacing a range of extant Local Plan policies which are two decades old. It sets out a clear and updated set of development management policies which seek to secure high quality sustainable development which will benefit the borough's residents, businesses, natural environment, and visitors. The LPDMP has been subject to extensive internal and external consultation and independent examination, and officers' recommendation is that it be adopted.

15. Background Papers

Submission LPDMP Equality Impact Assessment screening 2022: available as GBC-LPDMP-CD-011 at <https://www.guildford.gov.uk/localplanpart2examdocuments>

Guildford borough Submission Local Plan: development management policies (2022) – the version of the plan submitted to the Inspector: available at <https://www.guildford.gov.uk/guildfordlocalplan>

16. Appendices

Appendix 1: The Inspector's Report (it references Appendix 2).

Appendix 2: Schedule of Main Modifications (which accompanied the Inspector's Report).

Appendix 3: Schedule of Additional / Minor Modifications

Appendix 4: A final version of the Local Plan, which incorporates all of the Inspector's Main Modifications and the Council's Additional / Minor Modifications.

Appendix 5: The Sustainability Appraisal Adoption Statement.

Appendix 6: The Parking Standards for New Development SPD.

Appendix 7: The SPD Consultation Statement.

Appendix 8: The SPD Strategic Environmental Assessment and Habitats Regulations Assessment Determination Statement